

DRAFT: FOR DISCUSSION PURPOSES ONLY
PLEASE DISCARD AFTER INTERVIEW

Serial No.: 09/287,023
Art Unit: 2643
Page 2

REMARKS

1. Present Status of Patent Application

This is a full and timely response to the outstanding final Office Action mailed October 2, 2003. Claims 1-7 and 10-36 remain pending in the present application. Reconsideration and allowance of the application and presently pending claims are respectfully requested.

2. Examiner Interview

[To be completed after Interview scheduled for February 2]

3. Response to Rejection of Claims 10-17, 26-29, and 34-36 under 35 U.S.C. § 102(e)

In the Office Action, claims 10-17, 26-29, and 34-36 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by *Katz* (U.S. Patent 6,424,706). For a proper rejection of a claim under 35 U.S.C. Section 102, the cited reference must disclose all elements/features/steps of the claim. See, e.g., *E.I. du Pont de Nemours & Co. v. Phillips Petroleum Co.*, 849 F.2d 1430, 7 U.S.P.Q.2d 1129 (Fed. Cir. 1988).

a. Claim 10

As provided in independent claim 10, Applicant claims:

10. A method for executing a transaction with respect to an account, comprising:

receiving a communication on a calling line associated with a calling line number;

obtaining an account number and a transaction amount from the communication, the account number corresponding to an account with respect to which a transaction is to be conducted, the account associated with a recipient other than a subscriber associated with a calling line number account associated with the calling line number;

creating a billing message with respect to the calling line number, the billing message including the account number, the transaction amount, and the calling line number; and

using the account number and the transaction amount from the billing message to execute the transaction with respect to the account corresponding to the account number.

(Emphasis added).

**DRAFT: FOR DISCUSSION PURPOSES ONLY
PLEASE DISCARD AFTER INTERVIEW**

Serial No.: 09/287,023
Art Unit: 2643
Page 3

Applicant respectfully submits that independent claim 10 is allowable for at least the reason that *Katz* does not disclose, teach, or suggest anywhere in the specification or in the figures at the least the features of “creating a billing message with respect to the calling line number, the billing message including the account number, the transaction amount, and the calling line number; and using the account number and the transaction amount from the billing message to execute the transaction with respect to the account corresponding to the account number,” as recited in claim 10. (Emphasis added).

According to the Office Action, *Katz* “inherently” creates such a billing message, and the Office Action cites a passage (col. 17, line 36 to col. 18, line 21) from *Katz* that describes the flowcharts of FIGs. 4A-4B to support this finding. However, in the accompanying description for FIG. 4B, *Katz* discloses that unit-minute transactions (for the prepaid system where minutes are purchased via prepaid cards or credit card purchases before transactions are initiated) are not performed unless the sender already has a sufficient account balance to cover the transaction. Further, the transaction information is not stored until after the transaction has been performed. See steps 481 & 485 of FIG. 4B; col. 13, lines 14-19). Therefore, the use of a billing message is not “necessarily present” with regard to *Katz*. See col. 18, lines 59-63; FIG. 4B, step 478. In accordance with *In re Robertson*, 169 F.3d 743, 745, 49 U.S.P.Q.2D (BNA) 1949, 1950-51 (Fed. Cir. 1999), Applicant traverses that finding as being inadequate to show why the claimed feature is “necessarily present” in the reference. Consequently, because of the lack of *extrinsic* evidence that is required under *In re Robertson*, the Office Action’s statement is merely conclusory and not adequately supported, and the rejection should be withdrawn. Likewise, all other claim rejections in the Office Action that are based upon conclusory findings of inherency suffer from the same problem; therefore, the other rejections are also traversed for the same reason.

Assuming *arguendo* that *Katz* does disclose the step of “creating a billing message,” *Katz* also fails to disclose the feature of “using the account number and the transaction amount from the billing message to execute the transaction.” (Emphasis added). As shown in FIG. 4B, *Katz* discloses that a unit-minute transaction is executed before transaction information is stored. See steps 481 & 485 of FIG. 4B. Further, *Katz* states: “If the transaction was successful, a process

DRAFT: FOR DISCUSSION PURPOSES ONLY
PLEASE DISCARD AFTER INTERVIEW

Serial No.: 09/287,023
Art Unit: 2643
Page 4

485 stores the transaction for later settlement process.” Col. 19, line 9-12. Therefore, *Katz* fails to disclose, suggest, or teach the feature of using information from the billing message to execute the transaction. Therefore, *Katz* does not disclose or even suggest all the features of claim 10, and the rejection should be withdrawn.

b. Claims 11-17

Because independent claim 10 is allowable over the prior art of record, dependent claims 11-17 (which depend from independent claim 10) are allowable as a matter of law for at least the reason that dependent claims 11-17 contain all the steps and features of independent claim 10. *See In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988).

c. Claim 26

As provided in independent claim 26, Applicant claims:

26. In a telecommunications system wherein a billing message is created with respect to a communication, wherein the billing message is further created with respect to a calling line number account corresponding to a calling line number associated with the communication, and wherein the billing message is obtained by a billing system having access to the calling line number account and to other accounts, a method for execution of a transaction in the billing system between the calling line number account and one of the other accounts to which the billing system has access, comprising:

providing that the billing message includes an indication for the execution of the transaction;

causing the billing system to make a recognition of the indication in the billing message; and

in response to an indication in the billing message, causing the billing system to execute the transaction between the calling line number account associated with a subscriber and the one of the other accounts associated with a recipient other than the subscriber.

(Emphasis added).

Applicant respectfully submits that independent claim 26 is allowable for at least the reason that *Katz* does not disclose, teach, or suggest anywhere in the specification or in the figures at the least the features of “in response to an indication in the billing message, causing the

**DRAFT: FOR DISCUSSION PURPOSES ONLY
PLEASE DISCARD AFTER INTERVIEW**

Serial No.: 09/287,023
Art Unit: 2643
Page 5

billing system to execute the transaction between the calling line number account associated with a subscriber and the one of the other accounts associated with a recipient other than the subscriber," as recited in claim 26. The feature of a "billing message" is not "inherent" in *Katz*, and sufficient evidence of the inherency has not been provided by the Office Action. For example, *Katz* discloses that unit-minute transactions (for the prepaid system where minutes are purchased via prepaid cards or credit card purchases before transactions are initiated) are not performed unless the sender already has a sufficient account balance to cover the transaction. Further, the transaction information is not stored until after the transaction has been performed. *See* steps 481 & 485 of FIG. 4B; col. 13, lines 14-19). Therefore, the use of a billing message is not "necessarily present" with regard to *Katz*. Consequently, *Katz* does not disclose or even suggest all the features of claim 26, and the rejection should be withdrawn.

Assuming *arguendo* that *Katz* does disclose a "billing message," *Katz* fails to disclose the step of "in response to an indication in the billing message, causing the billing system to execute the transaction between the calling line number account associated with a subscriber and the one of the other accounts associated with a recipient other than the subscriber." (Emphasis added). As shown in FIG. 4B, *Katz* discloses that a unit-minute transaction is executed before transaction information is stored. *See* steps 481 & 485 of FIG. 4B. Further, *Katz* states: "If the transaction was successful, a process 485 stores the transaction for later settlement process." Col. 19, line 9-12. Therefore, *Katz* fails to disclose, suggest, or teach the feature of "causing the billing system to execute the transaction." Therefore, *Katz* does not disclose or even suggest all the features of claim 26, and the rejection should be withdrawn.

d. Claims 27-29

Because independent claim 26 is allowable over the prior art of record, dependent claims 27-29 (which depend from independent claim 26) are allowable as a matter of law for at least the reason that dependent claims 27-29 contain all the steps and features of independent claim 26.

DRAFT: FOR DISCUSSION PURPOSES ONLY
PLEASE DISCARD AFTER INTERVIEW

Serial No.: 09/287,023
Art Unit: 2643
Page 6

e. Claim 34

As provided in independent claim 34, Applicant claims:

34. In a telecommunications system functionally interconnecting a service switching point, a service control point, and an intelligent network element, and the telecommunications system including a billing system functionally connected at least to the service control point for retrieval of billing messages, the billing system including accounts for conducting transactions, a method for using a communication to conduct a transaction with respect to an account, comprising:

receiving the communication at the service switching point, the communication being associated with a calling line number;

causing the service switching point to obtain instructions regarding the communication from a service control point;

based on the instructions from the service control point, causing the service switching point to obtain an account number and a transaction amount from the communication, the account number corresponding to an account with respect to which the transaction is to be conducted in the billing system, the account associated with a recipient other than a subscriber associated with a calling line number account associated with the calling line number;

in response to obtaining the account number and the transaction amount, causing the service switching point to provide the account number, the transaction amount, and the calling line number associated with the communication to the service control point;

in response to receipt of the account number, the transaction amount, and the calling line number, causing the service control point to make an assignment of the account number, the transaction amount, and the calling line number to a billing message by including the account number, the transaction amount, and the calling line number in the billing message and by posting the billing message for obtaining the billing system; and

causing the billing system to retrieve the billing message from the service control point,

to note the assignment of the account number, the transaction amount, and the calling line number to the billing message, and

based on the assignment, to conduct the transaction in the billing system with respect to the account associated with the account number by crediting or debiting the account by at least the transaction amount.

(Emphasis added).

Applicant respectfully submits that independent claim 34 is allowable for at least the reason that *Katz* does not disclose, teach, or suggest anywhere in the specification or in the figures at the least the features of "causing the billing system to retrieve the billing message from the service control point, to note the assignment of the account number, the transaction amount, and the calling line number to the billing message, and based on the assignment, to conduct the

DRAFT: FOR DISCUSSION PURPOSES ONLY
PLEASE DISCARD AFTER INTERVIEW

DRAFT: FOR DISCUSSION PURPOSES ONLY
PLEASE DISCARD AFTER INTERVIEW

Serial No.: 09/287,023
Art Unit: 2643
Page 7

transaction in the billing system with respect to the account associated with the account number by crediting or debiting the account by at least the transaction amount,” as recited in claim 34. Again, *Katz* does not inherently disclose a “billing message,” since it is not “necessarily present” in *Katz*, and sufficient evidence to the contrary has not been provided by the Office Action. For example, *Katz* discloses that unit-minute transactions (for the prepaid system where minutes are purchased via prepaid cards or credit card purchases before transactions are initiated) are not performed unless the sender already has a sufficient account balance to cover the transaction. Further, the transaction information is not stored until after the transaction has been performed. *See* steps 481 & 485 of FIG. 4B; col. 13, lines 14-19). Hence, the use of a billing message is not “necessarily present” with regard to *Katz*. Therefore, *Katz* does not disclose or even suggest all the features of claim 34, and the rejection should be withdrawn.

Assuming *arguendo* that *Katz* does disclose a “billing message,” *Katz* fails to disclose the step of “causing the billing system to retrieve the billing message . . . to note the assignment of the account number . . . to the billing message, and based on the assignment, to conduct the transaction in the billing system.” (Emphasis added). As shown in FIG. 4B, *Katz* discloses that a unit-minute transaction is executed before transaction information is stored. *See* steps 481 & 485 of FIG. 4B. Further, *Katz* states: “If the transaction was successful, a process 485 stores the transaction for later settlement process.” Col. 19, line 9-12. Therefore, *Katz* fails to disclose, suggest, or teach the feature of “based on the assignment [from the billing message], to conduct the transaction.” Accordingly, *Katz* does not disclose or even suggest all the features of claim 34, and the rejection should be withdrawn.

f. Claim 35

As provided in independent claim 35, Applicant claims:

35. A method for executing a transaction, comprising:
receiving the communication associated with a calling line number;
obtaining a transaction amount from the communication;
coding the transaction amount and the calling line number into a billing message;
posting the billing message;
obtaining the billing message, and decoding the transaction amount and the calling line number from the billing message; and

**DRAFT: FOR DISCUSSION PURPOSES ONLY
PLEASE DISCARD AFTER INTERVIEW**

Serial No.: 09/287,023
Art Unit: 2643
Page 8

crediting or debiting an account by the transaction amount, the account associated with a recipient other than a subscriber associated with the calling line number.

(Emphasis added).

Applicant respectfully submits that independent claim 35 is allowable for at least the reason that *Katz* does not disclose, teach, or suggest anywhere in the specification or in the figures at the least the features of "coding the transaction amount and the calling line number into a billing message," as recited in claim 35. *Katz* does not inherently disclose "a billing message," since it is not "necessarily present" in *Katz*, and sufficient evidence to the contrary has not been provided by the Office Action. Moreover, *Katz* discloses that unit-minute transactions (for the pre-paid system) are not performed unless the sender has enough a sufficient account balance to cover the transaction which shows that use of a billing message is not "necessarily present" with regard to *Katz*. See col. 18, lines 59-63; FIG. 4B, step 478. Therefore, *Katz* does not disclose or even suggest all the features of claim 35, and the rejection should be withdrawn.

g. Claim 36

As provided in independent claim 36, Applicant claims:

36. A system for allowing a user to initiate a transaction and have the transaction conducted, comprising:

a service switching point (SSP)

for receiving a communication from the user, and
for obtaining and acting on instructions regarding the

communication;

a service control point (SCP)

for providing the instructions regarding the communication
to the SSP, the instructions instructing the SSP to retrieve transaction
information and to forward the transaction information to the SCP,
*for including the transaction information in a billing
message by assigning the transaction information to at least a field of the
billing message, and*

for posting the billing message for retrieval by a billing
system; and

the billing system

for retrieving the billing message,
for recognizing the transaction information in the billing
message, and

based on the recognition, for conducting the transaction

8

**DRAFT: FOR DISCUSSION PURPOSES ONLY
PLEASE DISCARD AFTER INTERVIEW**

DRAFT: FOR DISCUSSION PURPOSES ONLY
PLEASE DISCARD AFTER INTERVIEW

Serial No.: 09/287,023
Art Unit: 2643
Page 9

based on the transaction information, wherein the SCP is operative to code the transaction amount into a field of the billing message and the account number into another field of the billing message, and wherein the billing system is operative to decode the transaction amount from the field of the billing message and account number from the another field, and to credit or debit an account by the transaction amount, the account associated with a recipient other than the user.

(Emphasis added).

Applicant respectfully submits that independent claim 36 is allowable for at least the reason that *Katz* does not disclose, teach, or suggest anywhere in the specification or in the figures at the least the features of "including the transaction information in a billing message . . . and based on the recognition [of transaction information in the billing message], for conducting the transaction based on the transaction information," as recited in claim 36. *Katz* does not inherently disclose a "billing message," since it is not "necessarily present" in *Katz*, and sufficient evidence to the contrary has not been provided by the Office Action. Moreover, *Katz* discloses that unit-minute transactions (for the pre-paid system) are not performed unless the sender already has a sufficient account balance to cover the transaction. Further, the transaction information is not stored until after the transaction has been performed. See steps 481 & 485 of FIG. 4B. Consequently, the use of a billing message is not "necessarily present" with regard to *Katz*. Therefore, *Katz* does not disclose or even suggest all the features of claim 36, and the rejection should be withdrawn.

Assuming *arguendo* that *Katz* does disclose a "billing message," *Katz* fails to disclose the step of "based on the recognition [of transaction information in the billing message], for conducting the transaction." (Emphasis added). See col. 18, lines 59-63; FIG. 4B, step 478. Therefore, *Katz* fails to disclose, suggest, or teach the feature of "based on the recognition [of transaction information in the billing message], for conducting the transaction." Accordingly, *Katz* does not disclose or even suggest all the features of claim 36, and the rejection should be withdrawn.

4. Rejection of Claims 1-7, 18-25, and 30-33 under 35 U.S.C. § 103

Claims 1-7, 18-25, and 30-33 have been rejected under 35 U.S.C. § 103(a) as being purportedly unpatentable over *Katz* in view of *Lesley* (U.S. Patent No. 6,333,976). It is well

**DRAFT: FOR DISCUSSION PURPOSES ONLY
PLEASE DISCARD AFTER INTERVIEW**

Serial No.: 09/287,023
Art Unit: 2643
Page 10

established at law that, for a proper rejection of a claim under 35 U.S.C. § 103 as being obvious based upon a combination of references, the cited combination of references must disclose, teach, or suggest, either implicitly, all elements/features/steps of the claim at issue. *See, e.g., In re Dow Chemical*, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988); *In re Keller*, 208 U.S.P.Q.2d 871, 881 (C.C.P.A. 1981). Further, for a proper rejection under 35 U.S.C. § 103, both the suggestion to combine the combination of references and the expectation of success of the combination must be found in the prior art. *See In re Dow Chemical Co.*, 837 F.2d 469, 473, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988).

a. Claim 1

As provided in independent claim 1, Applicant claims:

1. In a telecommunications system functionally interconnecting a service switching point, a service control point, and an intelligent network element, and the telecommunications system including a billing system functionally connected at least to the service control point for retrieval of billing messages, the billing system including telecommunications accounts for charging fees to subscribers with respect to telecommunications services provided to the subscribers, a method for using a communication to conduct a transaction with respect to a telecommunications account, comprising:

receiving the communication at the service switching point, the communication being associated with a calling line number associated with a first telecommunications account;

causing the service switching point to route the communication to the intelligent network element;

causing the intelligent network element to obtain a telecommunications account number and a transaction amount from the communication, the telecommunications account number corresponding to a second telecommunications account with respect to which the transaction is conducted in the billing system;

in response to obtaining the telecommunications account number and the transaction amount, causing the intelligent network element to provide the telecommunications account number, the transaction amount, and a calling line number associated with the second telecommunications account and the communication to the service control point;

in response to receipt of the telecommunications account number, the transaction amount, and the calling line number associated with the second telecommunications account, causing the service control point to make an assignment of the telecommunications account number, the transaction amount,

DRAFT: FOR DISCUSSION PURPOSES ONLY
PLEASE DISCARD AFTER INTERVIEW

Serial No.: 09/287,023
Art Unit: 2643
Page 11

and the calling line number associated with the second telecommunications account to a billing message; and

causing the billing system to retrieve the billing message from the service control point,

to note the assignment of the telecommunications account number, the transaction amount, and the calling line number associated with the second telecommunications account, and

based on the assignment, to conduct the transaction in the billing system with respect to the second telecommunications account associated with the telecommunications account number by crediting or debiting the telecommunications account by at least the transaction amount.

(Emphasis added).

Applicant respectfully submits that independent claim 1 is allowable for at least the reason that *Katz* in view of *Lesley* does not disclose, teach, or suggest anywhere in the specification or in the figures at the least the features of “causing the billing system to retrieve the billing message from the service control point . . . [and] to conduct the transaction in the billing system with respect to the second telecommunications account associated with the telecommunications account number by crediting or debiting the telecommunications account by at least the transaction amount,” as recited in claim 1. According to the Office Action, *Katz* “inherently” creates such a billing message, and the Office Action cites a passage (col. 17, line 36 to col. 18, line 21) from *Katz* that describes the flowcharts of FIGs. 4A-4B to support this finding. However, in the accompanying description for FIG. 4B, *Katz* discloses that unit-minute transactions (for the pre-paid system) are not performed unless the sender already has a sufficient account balance to cover the transaction. Further, the transaction information is not stored until after the transaction has been performed. See steps 481 & 485 of FIG. 4B. Therefore, the use of a billing message is not “necessarily present” with regard to *Katz*. In accordance with *In re Robertson*, 169 F.3d 743, 745, 49 U.S.P.Q.2D (BNA) 1949, 1950-51 (Fed. Cir. 1999), Applicant traverses that finding as being inadequate to show why the claimed feature is “necessarily present” in the reference. Consequently, because of the lack of *extrinsic* evidence that is required under *In re Robertson*, the Office Action’s statement is merely conclusory and not adequately supported, and the rejection should be withdrawn. Likewise, all other claim rejections in the Office Action that are based upon conclusory findings of inherency suffer from the same problem; therefore, the other rejections are also traversed for the same reason.

**DRAFT: FOR DISCUSSION PURPOSES ONLY
PLEASE DISCARD AFTER INTERVIEW**

Serial No.: 09/287,023
Art Unit: 2643
Page 12

Assuming *arguendo* that *Katz* does disclose a "billing message," *Katz* in view of *Lesley* also fails to disclose at least the feature of "causing the billing system to retrieve the billing message from the service control point . . . [and] to conduct the transaction in the billing system." (Emphasis added). For example, as shown in FIG. 4B, *Katz* discloses that a unit-minute transaction is executed before transaction information is stored. See steps 481 & 485 of FIG. 4B. Further, *Katz* states: "If the transaction was successful, a process 485 stores the transaction for later settlement process." Col. 19, line 9-12. Therefore, *Katz* fails to disclose, suggest, or teach the feature of using information from the billing message to execute the transaction. Further, the deficiencies of *Katz* are not cured by the *Lesley* reference. For example, with regard to *Lesley*, FIG. 4(a) shows that step 98 to "create billing record and send to billing computer") is performed after step 94 to "provide service up to pre-paid amount." Hence, *Lesley* also fails to disclose, teach, or suggest the feature of "causing the billing system . . . to conduct the transaction," as claimed. Therefore, Applicant respectfully requests that the rejections to pending independent claim 1 be withdrawn.

b. Claim 2

Because independent claim 1 is allowable over the prior art of record, dependent claim 2 (which depends from independent claim 1) is allowable as a matter of law for at least the reason that dependent claim 2 contains all the steps and features of independent claim 1. See *In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988).

c. Claim 3

Because independent claim 1 is allowable over the prior art of record, dependent claim 3 (which depends from independent claim 1) is allowable as a matter of law for at least the reason that dependent claim 3 contain all the steps and features of independent claim 1. See *In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988).

Additionally and notwithstanding the foregoing reasons for allowability of independent claim 1, dependent claim 3 recites further features and/or combinations of features (as is apparent by examination of the claim itself) that are patentably distinct from the prior art of record.

12
**DRAFT: FOR DISCUSSION PURPOSES ONLY
PLEASE DISCARD AFTER INTERVIEW**

**DRAFT: FOR DISCUSSION PURPOSES ONLY
PLEASE DISCARD AFTER INTERVIEW**

Serial No.: 09/287,023
Art Unit: 2643
Page 13

Specifically, the feature "wherein the billing system conducts the transaction in billing system by crediting or debiting the calling line number account by at least the transaction amount," as recited in claim 3, is not disclosed or suggest by *Katz* in view of *Lesley*. Accordingly, the rejection of claim 3 should be withdrawn.

d. Claims 4-7

Because independent claim 1 is allowable over the prior art of record, dependent claims 4-7 (which depend from independent claim 1) are allowable as a matter of law for at least the reason that dependent claims 4-7 contain all the steps and features of independent claim 1.

e. Claim 18

As provided in independent claim 18, Applicant claims:

18. In a system for billing fees to subscribers for provision of telecommunication services, each subscriber having a telecommunications account in the system, the telecommunications account being associated with at least one calling line number, a method to conduct a transaction with respect to a telecommunications account in the system, comprising:

obtaining a billing message generated as a result of a telecommunications service performed with respect to a calling line number;

in response to obtaining of the billing message, making a determination that the billing message includes an indication that a transaction is conducted with respect to a telecommunications account in the system, the telecommunications account associated with a recipient other than the subscriber associated with a calling line number account associated with the calling line number; and

in response to the determination, conducting the transaction with respect to the telecommunications account.

(Emphasis added).

Applicants respectfully submit that independent claim 18 is allowable for at least the reason that *Katz* in view of *Lesley* does not disclose, teach, or suggest anywhere in the specification or in the figures at the least the features of "obtaining a billing message generated as a result of a telecommunications service performed with respect to a calling line number" and "in response to the determination [that the billing message includes an indication that a transaction is conducted], conducting the transaction with respect to the telecommunications

**DRAFT: FOR DISCUSSION PURPOSES ONLY
PLEASE DISCARD AFTER INTERVIEW**

Serial No.: 09/287,023
Art Unit: 2643
Page 14

account,” as recited in claim 18. According to the Office Action, *Katz* “inherently” creates such a billing message, and the Office Action cites a passage (col. 17, line 36 to col. 18, line 21) from *Katz* that describes the flowcharts of FIGs. 4A-4B to support this finding. However, in the accompanying description for FIG. 4B, *Katz* discloses that unit-minute transactions are not performed unless the sender already has a sufficient account balance to cover the transaction which shows that use of a billing message is not “necessarily present” with regard to *Katz*. See col. 18, lines 59-63; FIG. 4B, step 478. In accordance with *In re Robertson*, 169 F.3d 743, 745, 49 U.S.P.Q.2D (BNA) 1949, 1950-51 (Fed. Cir. 1999), Applicant traverses that finding as being inadequate to show why the claimed feature is “necessarily present” in the reference. Consequently, because of the lack of *extrinsic* evidence that is required under *In re Robertson*, the Office Action’s statement is merely conclusory and not adequately supported, and the rejection should be withdrawn. Likewise, all other claim rejections in the Office Action that are based upon conclusory findings of inherency suffer from the same problem; therefore, the other rejections are also traversed for the same reason.

Assuming *arguendo* that *Katz* does disclose a “billing message,” *Katz* in view of *Lesley* also fails to disclose at least the feature of “in response to the determination [that the billing message includes an indication that a transaction is conducted], conducting the transaction with respect to the telecommunications account.” (Emphasis added). As shown in FIG. 4B, *Katz* discloses that a unit-minute transaction is executed before transaction information is stored. See steps 481 & 485 of FIG. 4B. Further, *Katz* states: “If the transaction was successful, a process 485 stores the transaction for later settlement process.” Col. 19, line 9-12. Therefore, *Katz* fails to disclose, suggest, or teach the feature of using information from the billing message to execute the transaction. Further, the deficiencies of *Katz* are not cured by the *Lesley* reference. For example, with regard to *Lesley*, FIG. 4(a) shows that the step 98 to “create billing record and send to billing computer”) is performed after step 94 to “provide service up to pre-paid amount.” Hence, *Lesley* also fails to disclose, teach, or suggest the feature of “in response to the determination [that the billing message includes an indication that a transaction is conducted], conducting the transaction,” as claimed. Therefore, Applicant respectfully requests that the rejections to pending independent claim 18 be withdrawn.

**DRAFT: FOR DISCUSSION PURPOSES ONLY
PLEASE DISCARD AFTER INTERVIEW**

**DRAFT: FOR DISCUSSION PURPOSES ONLY
PLEASE DISCARD AFTER INTERVIEW**

Serial No.: 09/287,023
Art Unit: 2643
Page 15

f. Claims 19-25

Because independent claim 18 is allowable over the prior art of record, dependent claims 19-25 (which depend from independent claim 18) are allowable as a matter of law for at least the reason that dependent claims 19-25 contain all the steps and features of independent claim 18.

g. Claims 30-33

Because independent claim 26 is allowable over the prior art of record, dependent claims 30-33 (which depend from independent claim 26) are allowable as a matter of law for at least the reason that dependent claims 30-33 contain all the steps and features of independent claim 26.

CONCLUSION

For at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that pending claims 1-7 and 10-36 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,

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